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Attorneys for Plaintiffs Seng Xiong;
Thao Xiong; Lor Vang; and Lue Vang

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SENG XIONG; THAO XIONG; LOR VANG;
and LUE VANG

Plaintiffs,

v.

LAO PEOPLE'S DEMOCRATIC REPUBLIC;
PRESIDENT THONGLOUN SISOUKITH;
PRIME MINISTER SONXAI SIPHANDON;
SOUANSAVAN VI-GNAKET, MINISTER
OF JUSTICE; GENERAL CHANSAMONE
CHANYALATH, MINISTER OF DEFENSE;
LIEUTENANT GENERAL VILAY
LAKHAMFONG, MINISTER OF PUBLIC
SECURITY; DR. YANG DAO

Defendants

Case No. 23-cv-02531-DJC-SCR (PS)

**PLAINTIFFS SENG XIONG, THAO
XIONG, LOR VANG, AND LUE VANG'S
NOTICE OF APPLICATION AND
APPLICATION FOR DAMAGE PROVE-
UP HEARING ON DEFAULT AN ENTRY
OF DEFAULT JUDGMENT;
APPLICATION AND MOTION FOR
SEPARATE TRIAL AS TO THE LAOS
DEFENDANTS TO PERMIT A
JUDGMENT AS TO THEM, SO THAT
THE CASE MAY PROCEED AGAINST
THE USA DEFENDANT, DR. YANG DAO**

Date: November 21, 2024

Time: 10:00am

Location: Courtroom 27, 8th Floor

**I.
NOTICE OF APPLICATION**

TAKE NOTICE that on November 21, 2024 at 10:00 a.m. in courtroom 28 of the above-entitled court located at 500 I Street, Sacramento, CA 95814, with appearances also permitted remotely,

1 there will be a hearing on the below-stated application for default judgment and motion for
2 separate trials as to the Laos-situated defendants.

3
4 If you wish to make a remote appearance you may do so by submitting a written request to the
5 court no later than 10 days of the hearing date. If the Court approves that request, it will issue a
6 zoom link. Please be further advised that we will be requesting a remote appearance and will be
7 submitting a written request for that remote appearance.

8
9 Should you wish to file any opposition to these requests, you should file them within 14 days [2
10 weeks] of the filing date [September 5, 2024] of this application.

11
12 **II.**
13 **APPLICATION AND MOTION**

14 Plaintiffs Seng Xiong, Thao Xiong, Lor Vang, and Lue Vang herewith submit this this application
15 for a hearing date for a damage prove up on a previously-entered default against the defendants
16 located in Laos [1. Lao People's Democratic Republic; 2. President Thongloun Sisoulithis; 3.
17 Prime Minister Sonxai Siphandon; 4. Souansavan Vi-gnaket, Minster of Justice; 5. General
18 Chansamone Chanyalath, Minister of Defense; 6. Lieutenant General Vilay Lakhamfong, Minister
19 of Public Security], and further application and request for entry of default judgment purusnat to
20 FRCP Rule 55(b) as to each of the Laos defendants [1. Lao People's Democratic Republic; 2.
21 President Thongloun Sisoulithis; 3. Prime Minister Sonxai Siphandon; 4. Souansavan Vi-gnaket,
22 Minster of Justice; 5. General Chansamone Chanyalath, Minister of Defense; 6. Lieutenant
23 General Vilay Lakhamfong, Minister of Public Security], and further application and motion
24 pursuant to FRCP Rule 42(b) to have a separate trial of the action as to the Laos defendants [1.
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1 Lao People's Democratic Republic; 2. President Thongloun Sisoulithis; 3. Prime Minister Sonxai
2 Siphandon; 4. Souansavan Vi-gnaket, Minister of Justice; 5. General Chansamone Chanyalath,
3 Minister of Defense; 6. Lieutenant General Vilay Lakhamfong, Minister of Public Security] so
4 that the case may go to judgment as to the last defendants and then proceed on the merits as to the
5 USA defendant Dr. Yang Dao, who has submitted a response In the form of a motion to dismiss
6 currently pending
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9 The request for a damage prove up hearing and entry of judgment against the Laos defendants Lao
10 People's Democratic Republic; President Thongloun Sisoulithis; Prime Minister Sonxai
11 Siphandon; Souansavan Vi-gnaket, Minister of Justice; General Chansamone Chanyalath, Minister
12 of Defense; and Lieutenant General Vilay Lakhamfong, Minister of Public Security is made
13 pursuant to FRCP Rule 55(b) on the grounds that on February 5, 2024, the court entered a default
14 against each of the Laos situated defendants, and thus it is ripe for a damage prove-up.
15

16 A copy of the Certificate of Entry of Default previously entered by this court is attached to this
17 application as Exhibit A.
18

19 By this application for default judgment, Plaintiffs are requesting an award of damages as
20 specified in their complaint in the amount of \$20 million each times four plaintiffs equals \$80
21 million. Plaintiff also seeks the following injunctive relief which the court can further grant as part
22 of the default judgment [Complaint, paragraphs 124-131]:
23

24 "124. Plaintiffs further seek and request equitable relief and injunctive relief in the form of
25 a temporary restraining order, a preliminary injunction, and a permanent injunction barring
26 the defendants and each of them from taking any further efforts to interfere with the
27 Plaintiffs' program to establish a Hmong Homeland somewhere on this Earth. Plaintiffs are

1 still actively seeking a host country to permit such a homeland and are actively searching
2 in Philippines, Thailand, and in the USA.

3 125. This injunctive relief requests that the defendants and each of them be barred by any
4 further conduct to interfere with the program to establish a Hmong homeland, or such
5 other injunctive relief as a court deems just an appropriate.

6 126. Plaintiffs further seek injunctive relief in the form of an order requiring the last
7 government and defendants named herein to abide by the peace treaties and hold
8 democratic elections as they agreed to in the peace treaties.

9 127. This injunctive relief requests further orders requiring the Laos government and the
10 defendants named herein to cease and desist from any further war crimes against the
11 Hmong people, including the genocide of the Hmong people; the rape, torture, and
12 murder of the Hmong people; the destruction of the jungle where the Hmong people
13 are currently hiding out in; and other crimes according to proof committed by the
14 defendants herein. This conduct is ongoing, and is expected to be continued until
15 every single Hmong person having direct or family involvement in the USA CIA's
16 secret war in Laos is wiped off the face of the Earth.

17 128. Plaintiffs have suffered and will continue to suffer irreparable harm in the form of
18 losing their homes property and life in Laos, and due to the interference with the
19 plaintiffs' efforts to establish a Hmong homeland, and other irreparable harms for
20 which plaintiffs are without an adequate remedy at law.

21 129. Plaintiffs further seek such other injunctive relief as the court deems just and
22 appropriate.

23 130. Plaintiffs seek further equitable relief in the form of an accounting to determine
24 appropriate restitution amounts that the defendants should be required to pay over to
25 the plaintiffs as a result of the defendants taking over the plaintiffs' lands, property,
26 and holdings and using those lands property and holdings for their own purposes to
27 the detriment and loss of each of the plaintiffs. The amount of restitution claimed

1 herein is not known to the plaintiffs, but is believed to be in excess of \$1 million each,
2 and is requested in an amount according to proof.

3 131. Plaintiffs by this action also requires such other further equitable, restitutionary, and
4 other provisional remedies as the Court deems just and appropriate.”

5
6 Plaintiffs also seek declaratory relief as described in paragraph 133 of the Complaint:

7 “133. Plaintiffs and each of them further seek declaratory relief in the form of an order by
8 the Court declaring that the defendants’ behavior and conduct as discussed in this
9 complaint was actually and factually committed by the defendants, and that such behavior
10 violates the Alien Tort Claims Act, that such behavior is continuing in nature and is
11 expected to continue into the reasonably foreseeable future, that the plaintiffs will be
12 irreparably harmed by such behavior and that unless until injunctive relief is given the
13 plaintiff's will continue to suffer irreparable harm, and such other declaratory orders and
14 relief as the court deems just and appropriate.”

15 By this application plaintiffs further request the imposition of exemplary damages against
16 defendant Laos PDR as set forth in paragraph 132 of the Complaint. Exhibit D to the
17 accompanying Memorandum of Points and Authorities, which was attached as Exhibit A to the
18 Complaint, is a USA CIA country data sheet about Laos, and provides information about country
19 wealth that should be deemed sufficient to serve as a basis of wealth and income on which to base
20 an award of punitive damages. Punitive damages should be awarded in accordance with the
21 holdings of *State Farm Mutual Automobile Insurance Co. v. Campbell* (2003) 538 U.S. 408, 419
22 and *Honda Motor Co. v. Oberg*, 512 U.S. 415, 420 (1994). See *State Farm Mutual Automobile*
23 *Insurance Co. v. Campbell* (2003) 538 U.S. 408, 419, discussed below in the Memorandum of
24 Points and Authorities.

1 The application for a separate trial in this action is made on the basis that, generally speaking,
2 courts will give one judgment in an action and that in this case, one of the defendants residing in
3 USA defendant Dr. Yang Dao, has filed a response to the complaint in the form of a letter brief
4 which the court has deemed a motion to dismiss that motion is fully briefed and is awaiting
5 decision by the Court.

6
7 A separate trial is appropriate under FRCP 42(b) in the interest of justice to permit a default
8 judgment as to the non-responding defendants, all of whom reside in Laos. A separate trial is
9 requested pursuant to FRCP Rule 42(b), which provides:

10 “(b) SEPARATE TRIALS. For convenience, to avoid prejudice, or to expedite and
11 economize, the court may order a separate trial of one or more separate issues, claims,
12 crossclaims, counterclaims, or third-party claims. When ordering a separate trial, the court
13 must preserve any federal right to a jury trial.”
14

15
16 The application for default judgment a damage prove-up hearing and a separate trial of the action
17 as to the defaulting parties will be made on the basis of this application, on the accompanying
18 memorandum appoints an authorities, and on the evidence to be given of damages during the
19 damage prove-up proceedings by each of the four plaintiffs, on the pleadings and files herein, and
20 on such other matters as the Court may permit during the damage prove-up proceedings.

21
22 This application for default judgment and motion for separate trials will be based on this notice of
23 application and application for default judgment and for separate trials as to the Laos-situated
24 defendants; on the clerk's entry of default dated February 5, 2024 and attached to the
25 accompanying Memorandum of Points and Authorities as Exhibit A hereto; on the accompanying
26 Memorandum of Points and Authorities and series of Exhibits A,B, C, and D thereto; on the
27

1 complaint for violation of the Alien Tort Claims Act, 28 USC Section 1350 filed in this matter on
2 November 2, 2023, excerpts of which are attached as Exhibit B to the accompanying
3 Memorandum of Points and Authorities; on the files and pleadings here in on the direct testimony
4 to be provided by plaintiffs Seng Xiong, Thao Xiong, Lor Vang, and Lue Vang during the hearing
5 on the application for default judgment; and on such other matters as a court may permit during
6 the hearing on this application and motion for separate trials
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9 Respectfully Submitted,
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11 /s/ Herman Franck, Esq.
Herman Franck, Esq.
12 Attorney for Plaintiffs Seng Xiong;
Thao Xiong; Lor Vang; and Lue Vang
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September 5, 2024

LIST OF EXHIBITS

Exhibit A: Clerk's entry at default against the Laos defendants Lao People's Democratic Republic; President Thongloun Sisoulithis; Prime Minister Sonxai Siphandon; Souansavan Vi-gnaket, Minister of Justice; General Chansamone Chanyalath, Minister of Defense; and Lieutenant General Vilay Lakhamfong, Minister of Public Security

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EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF CALIFORNIA**

SENG XIONG, ET AL.,

**CLERKS CERTIFICATE OF
ENTRY OF DEFAULT**

2:23-CV-02531-DJC-DB

v.

**LAO PEOPLE'S DEMOCRATIC REPUBLIC,
ET AL.,**

TO ALL COUNSEL:

By application of Plaintiff and it appearing that the defendant having been duly served with process as appears from the record and papers on file herein; and having failed to appear, plead or answer Plaintiff's complaint within the time allowed by law; the default of the following Defendant(s) is/are hereby entered:

Chansamone Chanyalath, Vilay Lakhamfong, Lao People's Democratic Republic, Sonxai Siphandon, Thongloun Sisoulithis, Souansavan Vi-Gnaket

Counsel is/are referred to Rule 55(b), of the Federal Rules of Civil Procedure, and Local Rules 302(c)(19) and 230. If there is more than one defendant in this case, counsel are further referred to Fed. R. Civ. P. 54(b).



IN TESTIMONY WHERE OF, I have hereunto subscribed my name and affixed the seal of the United States District Court for the Eastern District of California, on February 5, 2024.

**KEITH HOLLAND
CLERK OF COURT**

By: /s/ A. Kastilahn

Deputy Clerk

PROOF OF SERVICE

I, Elizabeth Betowski, declare as follows: That I am an adult over the age of 18, and have an office in Sacramento, California, and am not a party to the present action. On the date signed below, I caused to be served by USPS Priority Mail, the following documents:

- 1. PLAINTIFFS SENG XIONG, THAO XIONG, LOR VANG, AND LUE VANG'S NOTICE OF APPLICATION AND APPLICATION FOR DAMAGE PROVE-UP HEARING ON DEFAULT AN ENTRY OF DEFAULT JUDGMENT; APPLICATION AND MOTION FOR SEPARATE TRIAL AS TO THE LAOS DEFENDANTS TO PERMIT A JUDGMENT AS TO THEM, SO THAT THE CASE MAY PROCEED AGAINST THE USA DEFENDANT, DR. YANG DAO**
- 2. MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS SENG XIONG, THAO XIONG, LOR VANG, AND LUE VANG'S APPLICATION FOR DAMAGE PROVE-UP HEARING ON DEFAULT AN ENTRY OF DEFAULT JUDGMENT; APPLICATION AND MOTION FOR SEPARATE TRIAL AS TO THE LAOS DEFENDANTS TO PERMIT A JUDGMENT AS TO THEM, SO THAT THE CASE MAY PROCEED AGAINST THE USA DEFENDANT, DR. YANG DAO**

The above-listed documents were served on all parties by USPS Priority Mail to the following addressees:

Lao People's Democratic Republic
c/o President Thongloun Sisoulithis
Lao People's Democratic Republic
Presidential Palace
Thanon Setthathirat
Ban Xiengyeun Tha, Muang Chanthaburi
Vientiane (Vienchang)
Lao People's Democratic Republic
Tel: 856-21-214-207

Prime Minister Sonxai Siphandon,
Lao People's Democratic Republic
Prime Minister's Office
Ban Nahai Dious, Muang Chanthaburi
Vientiane (Vienchang),
Lao People's Democratic Republic 0101
Tel: P: 856-21-223-620

President Thongloun Sisoulithis
Lao People's Democratic Republic
Presidential Palace
Thanon Setthathirat
Ban Xiengyeun Tha, Muang Chanthaburi
Vientiane (Vienchang)
Lao People's Democratic Republic
Tel: 856-21-214-207

General Vilay Lakhamfong, Minister of Public
Security
Ministry of Public Security
Nongbone Road,
Ban Nongbone, Xaysettha,
Vientiane
Lao People's Democratic Republic
T: 856-21-951-084

1 Souansavan Vi-Gnaket
2 Ministry of Justice
3 Lane Xang Avenue,
4 Ban Hatsady Tay, Chanthabouly,
5 Vientiane,
6 Lao People's Democratic Republic
7 T: 856-21-412-054;

Gen. Chansamone Chanyalath
Ministry of National Defense
Phone Kheng Road,
Ban Phone Kheng,
Sikhotabong,
Vientiane,
Lao People's Democratic Republic
T: 856-21-911-017

Dr. Yang Dao
4444 Fallgold Parkway North
Brooklyn Park, MN 55443

10 I declare under oath and under penalty of perjury that the foregoing is true and correct and that this
11 Declaration was executed in Sacramento, California, on September 5, 2024.

12 
13 Elizabeth Betowski
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